



press on fracking FYI
Carrie Wehling to: Bernadette Rappold, Andrew Stewart
Cc: Steven Neugeboren, John Michaud, Avi Garbow

04/02/2012 10:49 AM

From: Carrie Wehling/DC/USEPA/US
To: Bernadette Rappold/DC/USEPA/US@EPA, Andrew Stewart/DC/USEPA/US@EPA
Cc: Steven Neugeboren/DC/USEPA/US@EPA, John Michaud/DC/USEPA/US@EPA, Avi Garbow/DC/USEPA/US@EPA

Mentions Pavillion, Range and Dimock. ugly.
Carrie

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----- Forwarded by Carrie Wehling/DC/USEPA/US on 04/02/2012 10:47 AM -----

From: Pooja Parikh/DC/USEPA/US
To: Carrie Wehling/DC/USEPA/US@EPA
Date: 04/02/2012 09:13 AM
Subject: Re: Fw: Status of Draft Hydraulic Fracturing Diesel Guidance --- some emails over the weekend FYI

Ex. 5 - Deliberative

FYI - just came across more negative press on our handling of fracking:

1. NATURAL GAS: EPA's retreat in Range case is latest score for industry, states

Mike Soraghan, E&E reporter

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If you're keeping score in the "fracking" fight, the tally for March was EPA 0, industry and states 3.

Each side might contend that there is no such contest going on, but EPA made three significant concessions in the realm of shale gas regulation in short order last month.

The latest setback was the legal retreat beaten Friday by agency lawyers in the Range Resources case in Parker County, Texas (*E&ENews PM* , March 30). Dallas-based Regional Director Al Armendariz issued an emergency order in December 2010 charging that Range wells were leaking natural gas into two homes in the Fort Worth suburbs. He ordered Range to fix the problem and supply water to the families.

But Friday, EPA bailed out, lifting the emergency order and agreeing to dismiss the case. The reversal came as gasoline prices topped \$4 and President Obama sought to make an election-year case that he is committed to domestic oil and gas drilling.

Obama embarked last month on an energy tour, visiting a New Mexico drilling rig and an Oklahoma pipeline hub to show his support for drilling, along with wind, solar and other renewable energy (*EnergyWire* , March 23).

As the White House prepared for Obama's energy tour, EPA agreed to retest groundwater in Pavillion, Wyo., it had deemed contaminated with hydraulic fracturing fluid, and the agency announced that its high-profile intervention in Dimock, Pa., had yielded benign results.

The three cases were pursued by three different regional administrators but drew the attention of national media and EPA leaders at headquarters, including Administrator Lisa Jackson.

They had represented increasingly bold intervention in the drilling debate, implying or even proclaiming that state officials did not do enough to protect their own residents. And that created friction with political leaders and regulators in the states. Pennsylvania's top environmental regulator, appointed by a Republican governor, called EPA's understanding of the Dimock situation "rudimentary." A Texas elected official called EPA's move in his state a "frontal assault" on drilling.

On the other hand, some activists and neighbors of drilling operations applauded EPA officials for taking on a powerful industry when state government was unable or unwilling.

Power in states

State officials are the primary regulators of the country's boom in onshore oil and gas drilling, and industry likes it that way. Industry officials say state agencies have more local expertise than federal ones.

Unlike EPA, state oil and gas agencies are not charged exclusively with protecting the environment and human health. State laws order most of them to balance regulation with promoting oil and gas development (*Greenwire* , Nov. 30, 2011). And state regulators frequently have close ties to the local industry (*Greenwire* , Dec. 19, 2011).

Environmental groups have criticized state regulation of drilling. Democrats in Congress have introduced legislation to repeal an environmental exemption and give EPA more oversight of hydraulic fracturing. But the legislation is staunchly opposed by Republicans and failed to advance even when Democrats controlled Congress.

The Texas case began in 2010. Armendariz, administrator for EPA's South Central Region (Region 6), acted under the emergency provisions of the Safe Drinking Water Act. Those provisions require EPA to determine that local authorities have not done enough to protect human health. Armendariz pulled no punches, saying he had to move fast because Range's leak could cause the houses to explode.

When an Armendariz aide notified then-Railroad Commission Chairman Victor Carrillo, the state's top oil and gas regulator, Carrillo replied with an email calling the federal action "premature." Armendariz forwarded Carrillo's reply to EPA headquarters officials with a single-word message: "Stunning."

In a hearing called shortly thereafter, the Railroad Commission, which regulates oil and gas drilling in Texas, exonerated Range. One member of the commission called EPA's action "a frontal assault on domestic natural gas production."

EPA pressed ahead in federal court, but before the trial court ruled, an element of the case went to the 5th U.S. Circuit Court of Appeals, based in New Orleans. That is where the case stood before EPA's withdrawal last week.

Representatives of oil and gas companies cheered the move as a victory for state regulation and further proof that drilling and hydraulic fracturing are safe.

"Every time EPA intervenes in a high-profile case -- generating scads of maligning headlines about shale and hydraulic fracturing in the process -- the agency ends up getting it wrong," wrote Energy in Depth, a drilling public relations campaign, in a Friday "issue alert." "Are we the only ones to notice that, having been to the plate now three separate times, EPA is currently batting .000 on these cases?"

Unfinished business

EPA and some activists noted that Range will still have to do much of the testing and monitoring demanded in the emergency order. In a letter sent Friday as part of the dismissal agreement, Range committed to testing 20 wells in Parker County four times in the next year.

In Pavillion, EPA scientists concluded that hydraulic fracturing fluid had contaminated the aquifer under the community, ruining the industry talking point that there has never been a documented case of water contamination from fracturing.

But EPA's report stated those chemicals had not reached the drinking water wells of people in the community. And EPA officials said contaminants did not exceed drinking water standards. State officials have criticized EPA's findings.

After sustained criticism from state officials and Encana Corp., the major driller in the area, EPA in March agreed to retest some of the deep groundwater wells.

Dimock was the first of the interventions to take place even after a state investigated and punished a company for environmental violations.

The Pennsylvania Department of Environmental Protection shut down some of Cabot Oil & Gas Co.'s wells, fined the company and negotiated a \$4.1 million settlement. Cabot also delivered water to affected homeowners until November, when state regulators agreed it could stop. The residents say their aquifer is still contaminated.

EPA flip-flopped several times in its handling of Dimock. First it said the water posed no health risk, then that it merited more study. Then it promised to deliver water but reneged within 24 hours. In January, EPA flipped again, announcing it would test 60 wells and deliver water to four homes.

Cabot denies contaminating the wells, saying most wells in the region were laced with methane long before the arrival of drilling.

In mid-March, the agency announced that the first 11 samples to come back from the lab "did not show levels of contamination that could present a health concern." That brought cheers from industry representatives who hailed it as proof that EPA's remaining concerns in Dimock were unfounded.

But the Dimock residents who allege contamination say the test results the agency gave them don't square with the public announcement. They say those results show that the samples contained dangerous quantities of methane gas, which would confirm some of the agency's initial concerns.

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Carrie Wehling	Ex. 5 - Deliberative	04/02/2012 09:06:37 AM
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Date:	04/02/2012 09:06 AM	
Subject:	Re: Fw: Status of Draft Hydraulic Fracturing Diesel Guidance --- some emails over the weekend FYI	

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Pooja Parikh	Thanks for forwarding. I was wondering how folks were reacting to this. Sou...	04/02/2012 09:03:37 AM
Carrie Wehling	Caroline (Carrie) Wehling SDWA team leader	04/02/2012 08:54:08 AM